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3
4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

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7 LYUDMYLA PYANKOVSKA,

8 Plaintiff(s),

9 v.

10 SEAN ABID, et al.,

11 Defendant(s).

Case No. 2:16-CV-2942 JCM (PAL)

ORDER

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13 Presently before the court is plaintiff Lyudmyla Pyankovska's motion to reconsider. (ECF
14 No. 68). Defendant John Jones filed a response (ECF No. 73), to which plaintiff replied (ECF No.
15 74).

16 Also before the court is plaintiff's motion to extend time to file an amended complaint
17 (ECF No. 75).

18 **I. Facts**

19 Plaintiff and defendant Sean Abid are former spouses who got divorced on February 17,
20 2010. (ECF No. 1). Pursuant to the divorce decree, the parties agreed to joint legal and physical
21 custody of Aleksandr Abid (hereinafter "Sasha"), their minor child. *Id.*

22 On or about January 9, 2015, plaintiff filed a motion for contempt of court against
23 defendant Sean Abid. *Id.* Sometime thereafter, defendant Sean Abid inserted a recording device
24 into Sasha's school backpack with the intent of intercepting communications between Sasha,
25 plaintiff, and plaintiff's husband. *Id.* The device recorded multiple conversations between Sasha
26 and plaintiff. *Id.* Defendant Sean Abid brought digital copies of these conversations to his lawyer,
27 defendant Jones, as well as transcribed portions of the recordings in typewritten form. *Id.*
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1 Plaintiff first discovered the existence of the recordings on February 4, 2015, when
2 defendant Jones introduced them as exhibits to a countermotion to modify primary custody. *Id.*
3 Throughout the course of litigation, plaintiff discovered that defendant Sean Abid had deleted
4 portions of the recordings and erased the software that he used to edit the recordings. *Id.* The
5 court subsequently authorized defendants to give copies of the recordings and transcripts to expert
6 witness Dr. Holland to prepare for an interview of Sasha. *Id.*

7 The court ultimately ruled that the introduction of the recordings as independent evidence
8 would violate NRS 200.650, as defendant Sean Abid's procurement of such recordings did not
9 meet the requirements for the "vicarious consent doctrine." *Id.* However, the court ruled the
10 recordings admissible as a basis for the testimony and report of Dr. Holland. *Id.*

11 On November 16, 2017, the court granted defendant Jones' motion to dismiss, thereby
12 dismissing plaintiff's claims against Jones. (ECF No. 67). In that same order, the court granted
13 plaintiff's motion for leave to amend her complaint.

14 **II. Legal Standard**

15 A motion for reconsideration "should not be granted, absent highly unusual
16 circumstances." *Kona Enters., Inc. v. Estate of Bishop*, 229 F.3d 877, 890 (9th Cir. 2000).
17 "Reconsideration is appropriate if the district court (1) is presented with newly discovered
18 evidence, (2) committed clear error or the initial decision was manifestly unjust, or (3) if there is
19 an intervening change in controlling law." *School Dist. No. 1J v. ACandS, Inc.*, 5 F.3d 1255, 1263
20 (9th Cir. 1993); *see* Fed. R. Civ. P. 60(b).

21 Rule 59(e) "permits a district court to reconsider and amend a previous order," however
22 "the rule offers an extraordinary remedy, to be used sparingly in the interests of finality and
23 conservation of judicial resources." *Carroll v. Nakatani*, 342 F.3d 934, 945 (9th Cir. 2003)
24 (internal quotations omitted). "Motions for reconsideration are not 'the proper vehicles for
25 rehashing old arguments,' and are not 'intended to give an unhappy litigant one additional chance
26 to sway the judge.'" *Hernandez v. IndyMac Bank*, Case No. 2:12-cv-00369-MMD-CWH, 2012
27 WL 3860646, at *3 (D. Nev. Sept. 15, 2012) (internal citations omitted).

